

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-403-C - ORDER NO. 2001-299

APRIL 5, 2001

IN RE: Application of Uni-Tel Communications)	ORDER
Group, Inc. for a Certificate of Public)	GRANTING
Convenience and Necessity to Provide)	CERTIFICATE FOR
Intrastate Interexchange Telecommunications)	LONG DISTANCE
Services within the State of South Carolina)	AUTHORITY AND
and for Alternative Regulation of its Business)	ALTERNATIVE
Service Offerings Pursuant to Commission)	REGULATION
Orders Nos. 95-1734 and 96-55.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Uni-Tel Communications Group, Inc. ("Uni-Tel" or "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications within the State of South Carolina. In addition, the Company requests that the Commission regulate its long distance business services, consumer card, and operator service offerings under alternative regulation identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Company's Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated, and the Rules and Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Uni-Tel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Uni-Tel's Application

and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on February 7, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Bonnie D. Shealy, Esquire, represented Uni-Tel. Florence P. Belser, Deputy General Counsel represented the Commission Staff. John W. Gustaitis, III, testified on behalf of Uni-Tel. Barbara J. Crawford and James M. McDaniel testified on behalf of the Commission Staff.

John W. Gustaitis, III, Chief Operations Officer of Uni-Tel, appeared and testified in support of the Application. Uni-Tel is a privately held corporation incorporated in the State of Indiana that has received authority to operate as a foreign corporation in the State of South Carolina. The Company has requested authority to provide intrastate resold telecommunications services in South Carolina and has also requested that the Commission regulate its long distance business services, operator service, and consumer card services offerings in accordance with the principles and procedures established for alternative regulation in Orders No. 95-1734 and 96-55 in Docket No. 95-661-C.

Uni-Tel is a reseller of interexchange telecommunications services. Upon receiving certification from this Commission, Uni-Tel plans to provide telecommunications services to business and residential customers as a non-facilities-based reseller of interexchange services. Uni-Tel does not own, operate, control or

manage any telecommunication transmission facility. Uni-Tel does not own or operate a switch and will not construct any new facilities within South Carolina. Uni-Tel will utilize the network facilities of Frontier Communications. The customer will become a customer of Uni-Tel not the underlying carrier. Uni-Tel will assume responsibility for billing, trouble reporting, and customer service. Uni-Tel will neither own nor operate any facilities or plant in South Carolina but will provide directly through affiliates all end-user sales, customer, and billing operations.

Mr. Gustaitis offered testimony regarding the Company's technical, financial, and managerial ability to provide telecommunications services in South Carolina. He stated the key members of the management team have extensive experience in the telecommunications industry. The record reveals that Mr. Gustaitis has over seven years experience in the telecommunications industry with extensive experience in the areas of both direct-billed and LEC-billed products. Prior to joining Uni-Tel, Mr. Gustaitis was the Chief Operations Officer with UMG Communications where he oversaw the day-to-day operations of that company. The President and founder of Uni-Tel is John W. Gustaitis, II. He oversees the overall operations, marketing, sales, and research and development effort of Uni-Tel. Mr. Gustaitis, II gained extensive management expertise while serving as President of the Munster Radiology Group, President of Gustaitis, M.D., P.C., and as Vice President of G&S Development, a real estate development corporation. Jack Weichman is Controller and Chief Financial Officer of Uni-Tel and is responsible for all financial and accounting functions of the Company. Mr. Weichman is a Certified Public Accountant and also has management experience.

Regarding the Company's technical ability to provide telecommunications services in South Carolina, the testimony reveals Uni-Tel will only utilize carriers properly certified by the Commission. As a reseller of interexchange service, Uni-Tel relies on underlying carrier for technical assistance. Mr. Gustaitis explained the Company's customer service operations and stated that the company has technicians on call to respond to service complaints received outside normal business hours.

Mr. Gustaitis stated Uni-Tel has access to any financing and capital that would be necessary to conduct its telecommunications operations in South Carolina. According to Mr. Gustaitis only a minimal capital investment is necessary for entering the South Carolina market as a reseller, limited to the cost of certification and initial marketing. Should additional capital be required for the Company, Mr. Gustaitis testified that the Company has an available line of credit with a bank and that investors of the Company have also pledged additional financial support.

The testimony at the hearing and the record reveal that the Company will offer general long distance telecommunications services to business and residential customers in South Carolina. Mr. Gustaitis testified that Uni-Tel will market its services on both a regional and local basis. Uni-Tel will select and train authorized distributors in South Carolina who will call on potential customers to offer Uni-Tel's interstate telecommunications services.

Mr. Gustaitis also explained that Uni-Tel had inadvertently acquired customers in South Carolina prior to certification. According to Mr. Gustaitis, Uni-Tel acquired these customers through a problem in the computer system that arose in installing screening

software. The Uni-Tel system had been programmed to not accept area codes where Uni-Tel was not certified to operate. During the entering of new area codes and exchanges, this program was overridden or changed. As a result, the Uni-Tel system accepted some customers with area codes that previously had been blocked. After the customers in South Carolina were brought to the Company's attention, Uni-Tel either refunded or credited these customers for all intrastate charges. Mr. Gustaitis testified that Uni-Tel refunded or credited over \$14,139. After realizing these customers were on the Uni-Tel system, Uni-Tel did not charge these customers in South Carolina for intrastate calls. However, Uni-Tel did charge these customers for interstate and international calls. Mr. Gustaitis stated Uni-Tel would not charge these customers for intrastate calls until Uni-Tel received its certification to operate in South Carolina, but upon certification, Uni-Tel would begin charging these customers for all calls.

Mr. Gustaitis stated that Uni-Tel agreed to make the revisions to its tariff as suggested by Mr. McDaniel, and Mr. Gustaitis provided revised tariff pages incorporating the changes.

At the hearing, Uni-Tel requested a waiver of the Commission's Rules and Regulations 26 S.C. Code Ann. Regs. 103-610 (1976). Commission Regulation 103-610 requires that all records required to be kept by a telecommunications utility be kept within the State unless otherwise authorized by the Commission. Uni-Tel requests that it be allowed to maintain its books and records at its headquarters. Counsel for Uni-Tel asserted that it would be a burden on Uni-Tel to keep its books and records within South Carolina.

Staff witness Crawford testified as to her findings of the Commission's Audit Department's review of the financial statements that were submitted with the Company's Application. Mrs. Crawford testified that she reviewed the unaudited financial statements dated June 30, 2000. The statements indicated that the Company had only been operating a short time. The unaudited balance sheet at June 30, 2000, indicated a very liquid company with cash comprising 59% of the company's total assets. The current ratio, which is an indication of a company's ability to meet current liabilities with current assets, was a strong 3.8%. The income statement reflected a profit at June 30, 2000. Long-term debt made up more than 100% of total liabilities and stockholders' equity. This was due to the fact that stockholders' equity was negative due to prior losses that were reflected in retained earnings. Mrs. Crawford noted that the company's financials were not unusual for a start-up company, and she also noted that the company would need to continue to operate at a profit and/or have some other source of capital in order to service its long term debt. Mrs. Crawford concluded that the financial statements submitted indicate a company that is liquid and in fair financial position. Mrs. Crawford also concluded that the financial statements of Uni-Tel are typical of a company starting up in this industry.

Staff witness McDaniel presented testimony on the findings of the Commission's Utilities Department with respect to Uni-Tel's Application for a Certificate of Public Convenience and Necessity. According to Mr. McDaniel, Uni-Tel intends to provide services to residential and business customers as a non-facilities-based reseller of interexchange services utilizing the network facilities of Frontier Communications. Mr.

McDaniel noted that Uni-Tel requests that its long distance business service offerings, including consumer card and operator service offerings, be regulated under “Alternative Regulation” as established in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Mr. McDaniel also testified concerning suggestions that he made to Uni-Tel’s proposed tariff as filed with the Application. Mr. McDaniel presented an exhibit summarizing his recommendations for Uni-Tel to make to its proposed tariff. The purpose of Mr. McDaniel’s recommendations to the proposed tariff was to bring the proposed tariff into compliance with the Commission’s Rules and Regulations.

After full consideration of the applicable law, the Company’s application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Uni-Tel is organized as a corporation under the laws of the State of Indiana and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Uni-Tel operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.

3. Uni-Tel has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Uni-Tel to provide

intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the long distance services of Uni-Tel which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation set forth in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, the business service offerings of Uni-Tel, including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Uni-Tel also.

3. With regard to any offering of residential long distance services, the Commission adopts a rate design for Uni-Tel for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure

incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

Uni-Tel shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Uni-Tel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, Uni-Tel shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, the

revised tariff shall incorporate the suggested tariff changes made by the Commission Staff and to which Uni-Tel agreed.

5. Uni-Tel is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Uni-Tel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Uni-Tel changes underlying carriers, it shall notify the Commission in writing.

8. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Uni-Tel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at www.psc.state.sc.us/forms. This form is entitled "Authorized

Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

9. Uni-Tel shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. Annual reports and gross receipt reports are required by the Commission and necessitate the filing of intrastate information. Therefore, Uni-Tel shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The forms the company shall use to file annual financial information with the Commission are found at the Commission's website at www.psc.state.sc.us/forms. The form for reporting annual information for interexchange services is entitled "Annual Information on South Carolina Operations for Interexchange Companies and AOS" and consists of two pages. Be advised that the Commission's annual report for telecommunications companies requires the filing of intrastate revenues and intrastate expenses.

10. With regard to the origination and termination of toll calls within the same LATA, Uni-Tel shall comply with the terms of Order No. 93-462, "Order Approving Stipulation and Agreement," in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. Uni-Tel has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that the Company could maintain its books and records at its principal

headquarters. Uni-Tel is granted a waiver from the requirements of Regulation 103-610 related to keeping its books and records within the State of South Carolina. However, as otherwise provided in 26 S.C. Code Ann. Regs. 103-610 (1976), Uni-Tel shall make its records available for examination by the Commission at all reasonable hours.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

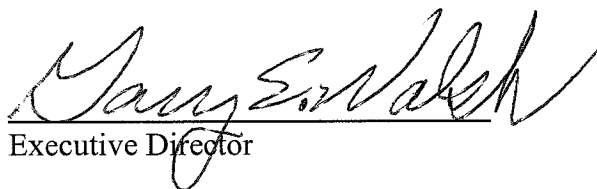
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)